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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

TIM CARR, individually and on behalf of
other customers,

Plaintiff,

v.

WALGREEN CO.,

Defendant.

Case No.: 3:20-cv-01349-SI

**JOINT MOTION TO STAY CASE
DEADLINES PENDING MEDIATION**

The parties jointly request an order staying further case deadlines, including with respect to Defendant's ("Walgreens") pending Motion to Compel Arbitration (the "Motion," Dkt. No. 9), until January 31, 2021, so the parties may pursue mediation.

In response to the Motion, Plaintiff contends that he did not have notice of the arbitration agreement in the operative terms and conditions of the Balance Rewards Program and that, in any event, the dispute is not within the scope of that arbitration agreement. Pursuant to 9 U.S.C.

§ 4, Walgreens has sought to pursue discovery concerning Plaintiff's contention that he is not bound by the arbitration agreement. *See, e.g., Simula, Inc. v. Autoliv, Inc.*, 175 F.3d 716, 726 (9th Cir. 1999) (quoting 9 U.S.C. § 4) ("The [Federal Arbitration Act] provides for discovery and a full trial in connection with a motion to compel arbitration only if 'the making of the arbitration agreement or the failure, neglect, or refusal to perform the same be in issue.'").

Plaintiff opposes such discovery, and would seek to have this Court rule on its argument that the Motion should be denied because the present dispute is outside the scope of the parties' arbitration agreement.

The parties, however, have agreed to pursue mediation and committed to mediate this dispute before January 31, 2021, at which point they will advise the Court whether the case has settled and, if not, ask that the Court to set a case schedule for further proceedings on the Motion. The parties respectfully request that the Court stay further deadlines in the case, including as to the Motion, through January 31, 2021, to facilitate mediation.

DATED: December 16, 2020.

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